



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/789,120	02/27/2004	Thomas Bader	DT-6776	7611
30377	7590	12/02/2005	EXAMINER	
DAVID TOREN, ESQ. ABELMAN FRAYNE & SCHWAB 666 THIRD AVENUE NEW YORK, NY 10017-5621			SHAKERI, HADI	
			ART UNIT	PAPER NUMBER
			3723	

DATE MAILED: 12/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/789,120

Applicant(s)

BADER, THOMAS

Examiner

Hadi Shakeri

Art Unit

3723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 February 2004 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. Regarding claim 1, the language, e.g., "two clamping members (20) which about a stem (74) of a fastening element in a release position" renders the claim indefinite because the clamping arms do not abut the stem, in the release position, as shown in Fig. 1, but only abut the stem in the support position, Fig. 2.

Further the contact region does not form a stop in "at least" the support position, i.e., in the release position the contact members (defined by 40) do not form a stop, therefore "the at least" as recited appears to invoke embodiment not disclosed, 112 1st paragraph rejection is not applied at this time, since it appears for the deficiencies to be a matter of clarity rather than enablement.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

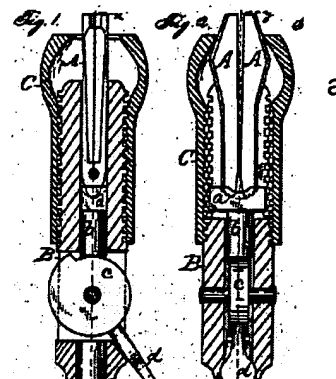
A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim 1 (as best understood) is rejected under 35 U.S.C. 102(b) as being anticipated by Armstrong (307,252).

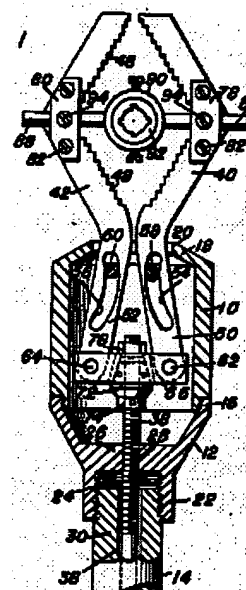
Art Unit: 3723

Armstrong discloses all of the limitations of claim 1, i.e., a device (A, B, C) capable of being securable on a shaft supporting tool bit for holding a bit insertable in the tool bit of a power tool comprising at least two clamping members (A, A) displaceable upon application of a force from a holding or support position to a release position and forming a front stop (tip projecting out of C).



6. Claims 1, and 4-6 (as best understood) are rejected under 35 U.S.C. 102(b) as being anticipated by Stevens (2,704,003).

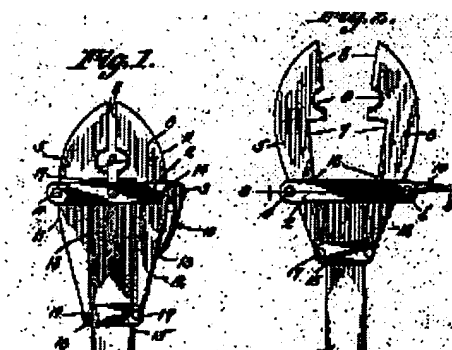
Stevens discloses all of the limitations of claim 1, i.e., a device (10, 40, 42) capable of being securable on a shaft supporting a tool bit for holding a bit insertable in the tool bit of a power tool comprising at least two clamping members (defined by 48 of 40, 42) displaceable upon application of a force (through rotation of crank 34) from a holding or support position to a release position and forming a front stop (tip of 46).



Regarding claims 4-6, Stevens meets the limitations, i.e., clamping arms (50, 52) supported by a pivot support (62, 64) displaceable by a slotted crank guide (54, 56); the guide having a curved recess and a guide member (58, 60) connected to the shaft (24, thru 12) and having curved first end in the support position.

7. Claims 1, 10, and 11 (as best understood) are rejected under 35 U.S.C. 102(b) as being anticipated by Beaver (1,623,379).

Beaver discloses all of the limitations of claim 1, i.e., a device (2, 5, 6, 15) capable of being securable on a shaft supporting a tool bit for holding a bit insertable in the tool



Art Unit: 3723

bit of a power tool comprising at least two clamping members (defined by 9 of 5, 6) displaceable upon application of a force from a holding or support position to a release position and forming a front stop (tip of 8).

Regarding claims 10 and 11, Beaver meets the limitations, i.e., a locking device (10) and means for adjusting the locking position (12, 13). Note that narrative/function language fails to further limit the device structurally.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Armstrong in view of Folz (6,458,022).

Armstrong meets all of the limitations of claims 2 and 3, except for disclosing the contact region to be in the form of a roller having a spherical shape. Although changing shape of the tip may be considered obvious to one of ordinary skill in the art, depending on the workpiece/operational parameters, e.g., to prevent damaging the workpiece, Folz is cited teaching a contacting region in the form of a sphere in a clamping device. It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to modify the invention of Armstrong with roller shaped contacting region as taught by Folz to prevent damaging the workpiece.

Art Unit: 3723

Allowable Subject Matter

10. Claims 7-9, 12-18 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

11. The following is a statement of reasons for the indication of allowable subject matter: structural limitations recited for the curved guide as in claims 7-9; the structure of the locking device as recited in claim 12, and the resilient region (80) as recited in claim 15 in addition to the other limitations in the claims, place claims 7-9, and 12-18 in condition for allowance.

Conclusion

12. Prior art made of record and not relied upon are considered pertinent to applicant's disclosure. Yorde, Tebbe and Petkovich are cited to show related inventions.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hadi Shakeri whose telephone number is (571) 272-4495. The examiner can normally be reached on Monday-Friday.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Hadi Shakeri
Primary Examiner
Art Unit 3723
November 29, 2005